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10/779,744

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Kazumi Doi

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

LIU, LIN

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/779,744 | Applicant(s) DOI ET AL. | |
| | Examiner LIN LIU | Art Unit 2445 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/31/2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is responsive to communications filed on 12/31/2008.

Claims 1-17 are pending and have been examined.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Swart et al. (PGPUB: US 2003/0025832 A1)** in view of **Gonzalez (PGPUB: US 2006/0256130 A1)**.

With respect to **claim 1**, Swart teaches a compound contents delivery method using a plurality of contents servers to which a plurality of contents are distributed to be stored in their contents storage units, respectively, a management server for managing delivery of contents to a portable terminal and an intermediate apparatus for mediating

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supply of contents from said plurality of contents servers to said management server so that said plurality of contents distributed to said plurality of contents servers are partially fetched as contents portions to combine the fetched contents portions according to time series for delivering compound contents produced through the combination thereof to said portable terminal (Swart: fig. 4), said method comprising:

an instruction information outputting step of, in said management server, outputting instruction information for production of the compound contents to said intermediate apparatus based on a substance of said compound contents to be produced (Swart: fig. 4, page 4, paragraphs 44-45, noted the aggregator 201);

a contents portion fetching instruction step of, in said intermediate apparatus, instructing said contents servers to fetch contents portions needed for production of the compound contents according to said instruction information outputted in said instruction information production step (Swart: fig. 4, page 3, paragraphs 40-41 and page 4, paragraphs 44-45, noted the remote content server 204);

a compound contents element acquiring and transmitting step of, in each of said contents servers, acquiring a compound contents element in corresponding relation to said contents portion which is an object of the fetching instruction in said contents portion fetching instruction step, converting the acquired compound contents element in an encoding format for said portable terminal, and transmitting the acquired and converted compound contents element to said intermediate apparatus (Swart: fig. 4, page 4, paragraphs 45-47, noted that the formatter reformats all input content into a format that is readily received by all user terminals);

a production step of, in said intermediate apparatus, combining said compound contents elements received from said contents servers based on instruction information from said management server thereby producing compound contents oriented to said portable terminal (Swart: fig. 4, page 3, paragraphs 40-41 and page 4, paragraphs 44-45); and

a delivery step of, in said management server, delivering said compound contents produced in said production step to said portable terminal (Swart: fig. 4, page 4, paragraph 47, noted that the aggregator reformats all the content into a format that is readily received by all user terminals).

However, Swart does not explicitly teach a method of combining compound content elements according to time series.

In an analogous art, Gonzalez teaches a method of combining compound content elements according to time series (Gonzalez: page 6, paragraphs 91-93).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of combining compound content elements according to time series as taught by Gonzalez in Swart's invention in order to assemble each discrete media instance correctly in time and provide a continuous presentation of the media to the users (Gonzalez: page 6, paragraph 92).

With respect to **claim 2**, Swart teaches a compound contents delivery method according to claim 1, wherein said management server is made to store and manage said compound contents previously received from said intermediate apparatus and said

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instruction information which corresponds to said compound contents by association, and said method further comprises:

an identity decision step of making a decision as to the identity between said instruction information produced in said instruction information production step and said instruction information stored in said management server (Swart: page 5, paragraph 54); and

an in-management-server first control step of, when the decision result in said identity decision step shows the produced instruction information is identical with said instruction information stored and managed in said management server, using said compound contents stored in a state associated with the stored instruction information as said compound contents to be delivered to said portable terminal in said delivery step and, when the decision shows no identity therebetween, transmitting the produced instruction information to said intermediate apparatus (Swart: page 5, paragraphs 54-55).

With respect to **claim 3**, Swart teaches a compound contents delivery method according to claim 2, wherein a plurality of intermediate apparatuses each identical with said intermediate apparatus are provided, and in said identity decision step, a decision is additionally made as to the degree of similarity between the produced instruction information and said instruction information stored in said management server, and in said in-management-server first control step, when a decision result in said identity decision step shows that the produced instruction information is not identical with said instruction information stored and managed in said management server, the produced

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instruction information is transmitted to said intermediate apparatus to which compound contents information is returned with respect to, of said instruction information stored and managed in said management server, said instruction information which is decided to be most similar to the produced instruction information (Swart: page 5, paragraphs 54-55).

With respect to **claim 4**, Swart teaches a compound contents delivery method according to claim 1, wherein a plurality of intermediate apparatuses each identical with said intermediate apparatus are provided, and in said management server, a processing load monitoring step is implemented to monitor a processing load in said converting unit and an in-management-server second control step is provided to transmit said instruction information produced in said instruction information production step to said converting unit having a smallest processing load on the basis of a monitor result from said processing load monitoring step (Swart: page 5, paragraphs 55-56).

With respect to **claim 5**, Swart teaches a compound contents delivery method according to claim 1, wherein, in said compound contents element acquisition step, said intermediate apparatus stores and manages said compound contents elements returned from said contents server in the past, and said contents portion fetching instruction step includes an in-intermediate-unit duplication decision step of obtaining information for specifying contents portion needed for the compound contents production from said instruction information and making a decision as to the degree of duplication in substance between said contents portion needed for the compound

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contents production and said compound contents element stored and managed in said intermediate apparatus (Swart: pages 5-6, paragraphs 58-59); and

a fetching instruction execution step for giving a fetching instruction to said contents server on the basis of a decision result in said in-intermediate-unit duplication decision step (Swart: page 6, paragraph 60).

With respect to **claim 6**, Swart teaches a compound contents delivery method according to claim 5, wherein, in said fetching instruction execution step, on the basis of the decision result in said in-intermediate-unit duplication decision step, said fetching instruction is not given to said contents server with respect to a duplicate portion between a substance of said contents portion needed for the compound contents production and said compound contents element stored and managed, and a compound contents element corresponding to said duplicate portion is used in producing said compound contents in said production step (Swart: pages 5-6, paragraphs 58-59).

With respect to **claim 7**, Swart teaches a compound contents delivery method according to claim 5, wherein, in said fetching instruction execution step, on the basis of the decision result in said in-intermediate-unit duplication decision step, when the substance of a portion of the contents portion needed for the compound contents production is duplicate with respect to said compound contents element stored and managed, said fetching instruction on a contents portion non-duplicate with respect to said compound contents element is given to said contents server (Swart: page 6, paragraph 62).

With respect to **claim 8**, Swart teaches a compound contents delivery method according to claim 1, wherein each of said contents servers stores and manages said compound contents element returned in said compound contents element acquisition step in the past and said compound contents element acquisition step includes:

an in-contents-server duplication decision step of making a decision on the degree of the duplication in substance between the contents portion which is an object of said fetching instruction in said contents portion fetching instruction step and said compound contents element stored and managed in said contents server (Swart: pages 5-6, paragraphs 58-59); and

a compound contents element reply step of, on the basis of a decision result in said in-contents-server duplication decision step, fetching said contents portion, which is an object of said fetching instruction, from said contents storage unit and making a conversion into an encoding format for said portable terminal to return it as a compound content element to said intermediate apparatus (Swart: page 6, paragraph 62).

With respect to **claim 9**, Swart teaches a compound contents delivery method according to claim 8, wherein, in said compound contents element reply step, on the basis of the decision result in said in-contents-server duplication decision step, of said contents portion which is an object of said fetching instruction in said contents portion fetching instruction step, a portion duplicate in substance with respect to said compound contents element stored and managed is not fetched from said contents storage unit while a compound contents element corresponding to the substance duplicate portion is returned to said intermediate apparatus (Swart: pages 5-6, paragraphs 58-59).

With respect to **claim 10**, Swart teaches a compound contents delivery method according to claim 8, wherein, in said compound contents element reply step, on the basis of the decision result in said in-contents-server duplication decision step, of said contents portion which is an object of said fetching instruction in said contents portion fetching instruction step, a portion non-duplicate in substance with respect to said compound contents element stored and managed is fetched from said contents storage unit and, after a conversion is made into an encoding format for said portable terminal, the non-duplicate portion is returned as a compound contents element to said intermediate apparatus (Swart: pages 5-6, paragraphs 58-59).

With respect to **claim 11**, Swart teaches a compound contents delivery method according to claim 1, wherein, in said contents server, on the basis of popularity, important event and the like, a contents portion expected to be an object of said fetching instruction in said contents portion fetching instruction step is stored and managed as said compound contents element in advance (Swart: page 5, paragraphs 56).

. With respect to **claim 12**, Swart teaches a compound contents delivery method according to claim 1, wherein each of said contents distributed to said plurality of contents servers includes data having a time zone including voice data or motion picture data and said contents portion is arranged through the use of the voice or motion picture data partially extracted from said time zone (Swart: page 6, paragraphs 60).

. With respect to **claim 13**, Swart teaches a compound contents delivery method according to claim 12, wherein, in said contents portion fetching instruction step in said intermediate apparatus, said contents portion for the compound contents production

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which is an object of said fetching instruction is designated by designating information about a service location on the internet having said contents portion, a time zone of said contents portion, a media assortment or an encoding condition after the encoding conversion (Swart: page 5, paragraphs 54-55).

In regard to **claims 14-17**, the claim limitations of these claims are substantially the same as those in claims 1-13. Therefore, the supporting rationale of the rejection to claims 1-13 applies equally as well to claims 14-17.

Response to Arguments

5. Applicant's arguments filed on 12/31/2008 have been fully considered but they are not persuasive.

6. After carefully reviewing the Applicant's remarks, the following is a list of Applicant's main concerns on the previous Office Action:

a. On page 10 paragraph 3 of Applicant's remark, Applicant argues that "Gonzalez merely discloses a multimedia publishing system for wireless devices which includes a database server 102, an application server 104, a presentation server 106, and a media player of a wireless client device 108 (Figure 1). The application server 104 is responsible for encoding, transcoding, resizing, refactoring, and reformatting the media objects for delivery by the presentation server 106, and provides content to the presentation server 106 in the correct format and time sequence. The presentation server 106 then compiles

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application data from the application server 104. The Applicants respectfully submit that this is in direct contrast to the recited features of a compound contents element acquiring and transmitting step of, in each of said contents servers, acquiring a compound contents element in corresponding relation to said contents portion which is an object of the fetching instruction in said contents portion fetching instruction step, converting the acquired compound contents element in an encoding format for said portable terminal, and transmitting the acquired and converted compound contents element to said intermediate apparatus; a production step of, in said intermediate apparatus, combining said compound contents elements received from said contents servers according to time series based on instruction information from said management server thereby producing compound contents oriented to said portable terminal; and a delivery step of, in said management server, delivering said compound contents produced in said production step to said portable terminal.” (emphasis added).

7. With regard to argument **a**, the examiner disagrees. First the examiner would like to address to the Applicant that the secondary reference Gonzalez is only relied upon to remedy the deficiency of not having the limitation: “a method of combining compound content elements according to time series”, wherein Gonzalez teaches transcoding and reformatting the media contents in the correct format and time sequence (page 6 paragraphs 91-93). Secondly, as Applicant also admits and agrees that the secondary reference Gonzalez is directed toward a method “for encoding, transcoding, resizing,

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refactoring, and reformatting the media objects for delivery by the presentation server 106, and provides content to the presentation server 106 in the correct format and time sequence". Therefore, Applicant's argument is deemed not persuasive.

8. Applicant has had an opportunity to amend the claimed subject matter, and has failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

9. Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and reasonably s possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

10. Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims

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with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIN LIU whose telephone number is (571)270-1447.

The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571)-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lin Liu/
Examiner, Art Unit 2445

/Patrice Winder/
Primary Examiner, Art Unit 2445